

REMARKS

Claims 1-68 were previously pending in the subject application. The Examiner has rejected claims 1-68. Applicant has amended claims 1-3, 6-12, 16-23, 25-27, 29-35, 38-41, 43-53, and 55-68 and added new claims 69-70. Applicant has cancelled claims 4-5, 13-15, 24, 36-37, 42, and 54, without prejudice or disclaimer of the subject matter contained therein. Accordingly, claims 1-3, 6-12, 16-23, 25-35, 38-41, 43-53, and 55-70 are now pending in the subject application. No new matter has been added.

Applicant will sequentially address the issues raised by the Examiner.

Specification

Applicant has amended the specification to include the serial number of copending US Patent Application entitled "Multiple Laser Diagnostics." Applicant has also amended the specification to correct typographical errors.

Claim Rejection - 35 U.S.C. §101

Claims 57-68 stand rejected under 35 U.S.C. §101 as being directed to a computer program per se (claims 57-64) and a collection of data per se (claims 65-68). Applicant respectfully traverses this rejection with respect to claims 57-68. Nonetheless, in an effort to expedite the prosecution of the subject application, amendments have been entered to further clarify the structure or implementation of the invention defined by claims 57-68. In particular, claims 57-68 have been amended to recite a "computer-readable medium." Applicant respectfully submits that claims 57-68 are directed to statutory subject matter and requests withdrawal of the rejection under 35 U.S.C. §101.

Claim Rejection - 35 U.S.C. §112

Claims 10-11, 15-17, 19, 24, 30-44, 50-51, and 53 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection with respect to claims 10-11, 15-17, 19, 24, 30-44, 50-51, and 53. Nonetheless, in an effort to expedite the prosecution of the subject application, amendments have been entered to further clarify the structure or implementation of the invention defined by claims 10-11, 16-17, 19, 30-31, 34, 38-39, 41, 50-51, and 53. Claims 15, 24, 36-37, and 42 have been cancelled, without prejudice or disclaimer of the subject matter contained therein.

In particular, claims 10 and 34 have been amended to recite "means for adjusting a laser beam parameter of one of said laser treatment beams."

Claim 11 has been amended to recite "flashlamp laser."

Claims 16, 38, and 50 have been amended to recite "linear delivery means for scanning said combined treatment beam in a linear scanning pattern."

Claim 17, 39, and 51 have been amended to recite "three-dimensional delivery means for scanning said combined treatment beam in a three-dimensional scanning pattern."

Claim 19, 41, and 53 have been amended to recite "endoscopic delivery means for delivering said combined treatment beam within said substance."

Claim 30 has been amended to recite a "power source."

Claim 31 has been amended to recite "n lasers."

Applicant respectfully submits that these amendments overcome the rejection under 35 U.S.C. §112, second paragraph, and requests withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

Claim Rejections - 35 U.S.C. §102 and 35 U.S.C. §103

Claims 1-56 stand rejected under 35 U.S.C. §102 and/or 35 U.S.C. §103 in view of six references cited by the Examiner. Applicant respectfully traverses these rejections with respect to claims 1-56. Nonetheless, in an effort to expedite the prosecution of the subject application, amendments have been entered to more fully distinguish over the prior art of record. In addition,

various amendments have been entered for clarification or consistency. Claims 4-5, 13-15, 24, 36-37, 42, and 54 have been cancelled, without prejudice or disclaimer of the subject matter contained therein.

Independent claim 1 includes a number of limitations that are not shown or suggested by the prior art of record, taken either individually or in combination. For instance, Applicant's review of the prior art of record did not identify any teaching directed to a multiple laser treatment apparatus, which comprises a "mirror-based optical delivery device to deliver said laser treatment beams in a combined treatment beam, wherein said combined treatment beam has a spot size that is less than 0.1 mm." Thus, the prior art of record can neither anticipate nor render obvious the invention defined by independent claim 1.

Claims 2-3, 6-12, 16-23, 25-30, and 69 depend from independent claim 1 and are allowable for at least the reasons set forth above for independent claim 1.

Independent claim 31 also includes a number of limitations that are not shown or suggested by the prior art of record, taken either individually or in combination. For instance, Applicant's review of the prior art of record did not identify any teaching directed to a multiple laser treatment apparatus, which comprises "means for simultaneously delivering said selected ones of said laser treatment beams in a combined treatment beam at a substance that undergoes said treatment, wherein said combined treatment beam has a spot size that is less than 0.1 mm." Thus, the prior art of record can neither anticipate nor render obvious the invention defined by independent claim 31.

Claims 32-35, 38-41, 43-44, and 70 depend from independent claim 31 and are allowable for at least the reasons set forth above for independent claim 31.

Independent claim 45 also includes a number of limitations that are not shown or suggested by the prior art of record, taken either individually or in combination. For instance, Applicant's review of the prior art of record did not identify any teaching directed to a method for laser treatment, which comprises "simultaneously delivering said laser treatment beams in a combined treatment beam at a substance that undergoes said treatment, wherein said combined treatment beam has a spot size that is less than 0.1 mm." Thus, the prior art of record can neither anticipate nor render obvious the invention defined by independent claim 45.

Claims 46-53 and 55-56 depend from independent claim 45 and are allowable for at least the reasons set forth above for independent claim 45.

In conclusion, Applicant respectfully submits that the prior art of record fails to teach or suggest the structure or implementation of the invention defined by claims 1-3, 6-12, 16-23, 25-35, 38-41, 43-53, 55-56, and 69-70 and, thus, that the prior art of record cannot, as a matter of law, anticipate the claimed invention under 35 U.S.C. §102 or render obvious the claimed invention under 35 U.S.C. §103. Applicant, therefore, respectfully requests withdrawal of the rejections under 35 U.S.C. §102 and 35 U.S.C. §103.

Summary

For the reasons set forth above, Applicant respectfully submits that the subject application is in a condition for allowance. An early notice of allowance is, therefore, earnestly requested.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at (650) 843-5852.

Dated: April 20, 2004

Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

Respectfully submitted,
COOLEY GODWARD LLP

By:


Cliff Z. Liu
Reg. No. 50,834